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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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William M Lee Jr  
Lee Mann Smith McWilliams Sweeney & Ohlson  
P O Box 2786  
Chicago, IL 60690-2786

EXAMINER

NGUYEN, THUAN T

ART UNIT	PAPER NUMBER
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2685

DATE MAILED: 07/30/2003

4

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/512,910

Applicant(s)

SMITH ET AL.

Examiner

THUAN T. NGUYEN

Art Unit

2685

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/25/00 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to because Figures 1, 3 and 5 do not have text labels; and Figs. 9a, 9b & 9c shows details in too small characters, they should be in separate sheets with readable details and text labels. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claims 1, 17, and 18 recites the limitation "the proposed change" and "the pre-specified level of link performance" in the claim language. There is insufficient antecedent basis for this limitation in the claim. There are "a request to change" and "a specified level of link performance", in order to avoid a confusion in referring to terms may be have different meanings within a claim, "a proposed change" and "a pre-specified level of link performance" should be replaced to particularly point out the subject matter which the applicant regards as his invention.

Art Unit: 2685

5. Claim 2 recites the limitation "about the locations of each base station" and "the communication link" in the claim language according to claim 1; however, claim 1 does not call for any location of each base station" and only "a communications link" not "a plurality of communications links" is addressed. There is insufficient antecedent basis for this limitation in the claim.

6. Claim 5 recites the limitation "said specified level" and "said proposed subscriber station" in the claim language according to claim 1; however, claim 1 refers to "a specified level of link performance" and there is none "a proposed subscriber station", but "a request to change" and "the proposed change" (see item 3 above) instead. There is insufficient antecedent basis for this limitation in the claim.

7. Claim 6 recites the limitation "said change to the communications network" in claim 6 refers to a different meaning according to claim 1 for "a request to change the communications network", for example, the first one implies a change added to the (one) network, but the second one refers to a request to change from a network A to a network B. There is insufficient antecedent basis for this limitation in the claim.

Claim 6 is also rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim.

8. Claim 7 recites the limitation "the proposed subscriber station" and "the chosen base station" in the claim language. There is insufficient antecedent basis for this limitation in the claim.

Art Unit: 2685

Claim 7 is also rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim. Claim 7 recites “the proposed subscriber station” and “the chosen base station” according to claim 6, but there were none “a proposed subscriber station” and “a chosen base station” is introduced in claim 6.

9. Claim 10 recites the limitation "said specified level" in the claim language according to claim 7; however, claim 7 does not refers to any “specified level” but claim 1 with “a specified level of link performance” instead. There is insufficient antecedent basis for this limitation in the claim.

10. Claim 13 recites the limitations of "the carrier level", “the sum of estimates”, “the interference level”, “the adjacent channel interference level” and “the noise level” in the claim language according to claim 1. There is insufficient antecedent basis for this limitation in the claim.

11. Claim 19 recites the limitation “said communications links” in the claim language; however, only “a communications link” not “a plurality of communications links” is addressed. There is insufficient antecedent basis for this limitation in the claim.

12. Claim 20 recites the limitation "the locations of the base stations" and “the frequencies of said communications links” and “the fixed frequency plan” in the claim language according to claim 19; however, claim 19 does not call for any location of the base stations; only “a communications link” not “a plurality of communications links” is addressed; and none of “a fixed frequency plan” is addressed in claim 19. There is insufficient antecedent basis for this limitation in the claim.

Art Unit: 2685

13. The claims are generally narrative and indefinite, failing to conform to current U.S. practice. They appear to be a literal translation into English from a foreign document or not conforming to U.S. standards for patent examination, and are replete with grammatical and idiomatic errors. Therefore, the Examiner has to suspend further examinations, and would reconsider this application with a revised claim language in a better form conforming to the current U.S. patent practice for a better clarification and for further re-examination.

***Conclusion***

14. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

**(703) 872-9314, (for Technology Center 2600 only)**

*Hand-delivered responses should be brought to Crystal Park II,*


*2121 Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).*

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony Thuan Nguyen whose telephone number is (703) 308-5860. The examiner can normally be reached on Monday-Friday from 9:30 AM to 7:00 PM, with alternate Fridays off.

Art Unit: 2685

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban, can be reached at (703) 305-4385.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Technology Center 2600 Customer Service Office** whose telephone number is **(703) 306-0377**.



TONY T. NGUYEN  
PATENT EXAMINER

Tony T. Nguyen  
Art Unit 2685  
July 23, 2003